

8 P. C. TO LANDLORD, U. S. JUDGE DECIDES

Says Appellate Term's 10 Per Cent. Decision Is Not Binding.

EVIDENCE ISN'T BASIS

Learned Hand Ignores Also Manhattan Ruling on Investment.

RENT CASES MUDDLED

Only Properties in Hands of Receivers Are Affected by Court's Stand.

Judge Learned Hand in the United States District Court complicated still further yesterday the rent situation by deciding that a landlord was entitled to 8 per cent. net on the value of his property. In so doing he followed the decision of the Appellate Term in Brooklyn that the basis for calculation was not the total value of the property and not merely the landlord's investment, but held that that court's finding that 10 per cent. was a reasonable return was not based on evidence and hence not binding. Judge Hand ignored the decision of the Appellate Term in Manhattan that the landlord's investment should be the basis for calculating his return.

The decision was made in the case of objecting tenants of Chester Hall, Southern Boulevard and Westchester avenue, The Bronx, against the receivers of the property, Walter C. Noyes and Alfred E. Marling. Samuel Untermyer, who argued the case for the tenants and contended 7 per cent. was a reasonable return, hailed the decision as a victory, and declared that in effect it set aside the Brooklyn ruling, which, he said, would no longer have to be followed by the Municipal Courts of that borough.

Cites Returns on Securities.

Judge Hand, in deciding 8 per cent. a reasonable return, said he took judicial notice that the rate of return could be obtained on high grade securities. There was no proof before him, he said, that landlords were entitled to any higher rate. If the contention was that they were, proof should have been submitted. Speaking of the Brooklyn decision, Judge Hand said:

"Nor can I be bound by the dicta in Hall vs. Noyes, where the declaration of 10 per cent. in that case as a proper rate was not based on evidence. I cannot feel it authoritative on me. If it was, it depended on the proof offered in that case. That is, a mere statement by the court on something outside the case before it—relieved, according to Untermyer, the lower courts from being bound by it."

Questions Not Settled Yet.

The rent puzzle created by these conflicting decisions cannot be solved until the Appellate Division and possibly the Court of Appeals have passed on the questions. The Appellate Term in Manhattan gave permission on October 28 for an appeal from its recent decision to the Appellate Division, but the appeal has not yet been argued. Judge Hand's decision, it was said, is not binding on the courts of New York State in any way, but will be binding in all cases where a Federal receivership is involved, and which consequently come into the Federal courts.

In this decision also, Judge Hand fixed the value of the property at \$200,000, which was less than the receivers thought proper, and this caused a further reduction. The property was sold yesterday for \$200,000. A year later they found nothing illegal in a landlord bargaining with tenants and getting more than he could compel others to pay.

"It must, in my view, be left to the view of the relief which these statutes afford, that rents not contested are voluntarily paid."

MRS. BISHOP'S ALIMONY PETITION IS DROPPED

Arrangements Made to Pay Claim, Is Report.

An attempt by Mrs. Abigail Hancock Bishop, who obtained a divorce several years ago from James Cunningham Bishop, to compel the trustees of a fund established for a former husband to pay her \$10,000 a year alimony was provided in her divorce decree, ended in the Supreme Court yesterday when the application was stricken from the calendar by consent of all parties concerned. In making her application two weeks ago Mrs. Bishop set forth that her former husband had not been paying her the alimony to which she was entitled, but that he was in receipt of sufficient income to do so from a trust fund established by his father, Heber Reginald Bishop, of which Moses Taylor, Francis C. Bishop and the Metropolitan Trust Company were trustees. She asked that the trustees submit all facts in regard to the funds to a referee. It was stated yesterday when the application was dropped from the calendar that arrangements to pay Mrs. Bishop had been made out of court.

DETECTIVES UNABLE TO FIND MISS WILLSEY

Girl's Mother Reported on Verge of Collapse.

Detectives working on the case of Edna R. Willsey, called "the beautiful thief," who disappeared from the Virginia Day Nursery, in East Fifth street, Monday night, where she had been placed by a probation officer, have no clue yet concerning her whereabouts. Several articles of clothing were found to be missing from the rooms of employees at the nursery. Miss Willsey was under suspended sentence on a plea of guilty to grand larceny.

The girl's mother, who lives at 512 West Forty-second street, has recalled, according to the detectives, that her daughter, after her arrest last July, said something occasionally about "jumping out of the window." The police do not believe, however, that the girl took her life because of certain facts in connection with her disappearance.

Miss Willsey's nineteenth birthday falls on November 20. Her mother had planned a party for her, and is in a condition close to collapse as a result of her disappearance.

CHILD OPENS CLOSET DOOR TO FIND MOTHER IN FLAMES

'I Am Innocent, God Is My Judge,' Says Note in Her Handwriting—Newark Police Believe It Was Suicide—Accident, Says Husband.

Joseph Murphy, 9 years old, of 59 Howard street, Newark, went home from school for lunch yesterday afternoon, and when he could not find his mother he began searching the house. In a closet down stairs he saw smoke coming from the crevices of the door and he opened it. Mrs. Murphy, on fire from head to foot, fell to the floor of the room as he did so.

The boy ran to get neighbors and they arrived first, but Mrs. Murphy had died in a few minutes without being able to tell what had happened. There is no knob on the inside of the closet door, and they were, proof should have been submitted. Speaking of the Brooklyn decision, Judge Hand said:

But Mrs. Kerin's husband was helpless in bed with a broken leg, and she wouldn't leave him. He tried to get her to go and take their baby, but she refused. Instead, she tried to lift both her husband and the baby in her arms and carry them down the stairs. She failed because she was not strong enough, but she managed to get Kerin out of bed and to the center of the living room, about halfway between the door and the window. She ran to the top of the stairs and screamed as loudly as she could for help, and down the stairs came the firemen.

One man answered. John Vincent, a man on the second floor, knew the Kerins. When he was aroused by the smoke and flames he started to the street. He heard Mrs. Kerin's cry, and he went back into the house and managed to get up the stairs. When he went into the Kerin apartment he found Mrs. Kerin trying to drag her husband across the smoke-filled living room to the window, holding her baby in one arm while she dragged at the helpless man with the other. Vincent helped, and they got the injured man within a few feet of the window.

Mrs. Kerin started for the window, intending to throw it open and shout for help, when the glass was smashed and she fell back into the room. Hook and Ladder Company 17 climbed into the room from an aerial ladder on which he had come from the ground. He wanted to carry Mrs. Kerin down, but she would not leave until her husband and child had been saved. With the flames bursting into the doors of the apartment the fireman threw Kerin over his shoulder and went down the ladder with him, followed by Vincent carrying the baby.

Mrs. Kerin remained in the apartment, but she was quickly carried down by other firemen who came up on ladders and climbed into the apartment.

Several other tenants of lower floors were also carried down by the firemen, but none of them had such narrow escapes as the Kerins. Tenants of adjoining houses, their homes filled with smoke, were ordered by the police to go into the streets when the fire gained such headway that a second alarm was turned in by Acting Deputy Chief Samuel Poling. The fire had mushroomed through the roof only that time, but at midnight Chief Poling said that it would soon be under control.

NO AWARD IS URGED IN 17 YEAR OLD SUIT

Referee Renders Report in Rudiger Case.

The case of Eugene and John M. Rudiger against James S. Coleman and others was again reported by a referee yesterday to the Supreme Court in Brooklyn, after having been forty times before that court and twenty times before the Court of Appeals, in litigation for seventeen years. Each time the case has been before the court on a different point of law. In 1904 the Rudiger brothers, James Coleman and others permission to quarry a specified quantity of granite on their farm near Peekskill. A year later they contended that this amount had been exceeded and began a suit for the value of the excess granite which they claimed had been quarried. In the report handed to the court yesterday Referee Perry Sturges recommended Judge Benedict that nothing at all be awarded to the brothers.

AID TO GRANT RETURNS TO METHODIST HOME

Col. Baker, Reported Missing, Had Been Ill, He Says.

Col. Harvey Baker, who is said to have been at one time on the staff of Gen. Grant, returned to the Methodist Episcopal Home Amsterdam avenue and Ninety-second street yesterday afternoon, after he had been missing since October 25. A general alarm had been sent out for him by the police.

Col. Baker told the authorities of the home that he had gone to Staten Island to visit friends, that he had become ill while there and had remained until he felt able to make the trip back to Manhattan.

MARTENS'S BOND FORFEITED.

Soviet "Ambassador" Failed to Appear in Contempt Case.

A bond for \$1,000, put up in 1919 by Ludwig C. A. K. Martens, formerly representative of the Russian Soviet Government, after he had been found in contempt in the Supreme Court for failing to appear as a witness before the Lusk Committee, was declared forfeited yesterday.

Martens, who has returned to Russia, was ordered to appear before the committee when it was investigating Bolshevikism, but did not answer the subpoena served on him, and was adjudged in contempt. He appealed, after putting up a bond for \$1,000, on the ground that as a representative of a foreign Power he was not subject to the subpoena. The bond was declared forfeited because he returned to Russia without prosecuting his appeal.

SAY THAT PRISONERS WALKED OUT OF JAIL

Five From Raymond Street Did Not Get Over Roof, Brooklyn Rumor.

Harry E. Lewis, District Attorney of Kings county, said last night that he had been informed that the five men who escaped from the Raymond Street Jail in Brooklyn last Monday night walked out of the front door and did not get away over the roof and the wall, as has been reported by the jail authorities and the police.

"What information I have," said the District Attorney, "I cannot discuss now. However, the information makes an investigation absolutely necessary. But I do not want the impression to go out that suspicion is directed at this time toward any one. The escape of these five prisoners, however, was a most peculiar one."

The rumor that the men left the prison by the front door has also reached Wallace E. J. Collins, United States Attorney, but Mr. Collins would not discuss this phase of his investigation yesterday.

The investigation begun by Mr. Lewis, who visited the jail yesterday with Assistant District Attorney Cooper and a stenographer, is the fourth that is trying to find out how and why the five men escaped. The others are those by Collins, Warden Harry C. Honck and James A. Hamilton, Commissioner of the Department of Correction. The Government authorities have offered a reward of \$100 for the arrest of the two escaped prisoners who were waiting to be sent to Oxford, N. C. for trial on charges of robbing a post office there of \$24,000.

KUSER MAID SOUGHT IN \$20,000 GEM THEFT

Detectives Merely Wish to Question Her, They Say.

Chief Peter Stryker of the Barnardville (N. J.) police force said yesterday that he had made little progress in the search for the burglars who stole jewels valued at \$20,000 from the home of Anthony R. Kuser in Barnardville on Tuesday. Detectives are looking for a maid formerly employed in the house, but Chief Stryker said they wished her merely to question her, and did not think she was connected with the robbery. Chief Stryker said he believed the robbery was committed by professional burglars.

An advertisement published in THE NEW YORK HERALD this morning offers a reward of \$5,000 for the return of the stolen property and "no questions asked."

TWO AIRMEN'S CLUBS TO HAVE JOINT MEETING

Hostile Camps in Harmony for Armistice Day Event.

The war which threatened to split the airmen of New York, and indeed of the entire country, into two hostile camps on the eve of the third annual celebration of armistice day is over. Armistice day is the big day of pilots everywhere, but this year two dinners, each professing to be the only original third annual dinner in New York, were planned. One was planned by the Aero Club of America, to be held at the Pennsylvania Hotel. The other, projected by Laurence L. Driggs, former president of the American Flying Club, now a part of the Aero Club, was to have been held at the Commodore.

According to an announcement issued yesterday by the Aero Club, the two dinner committees, arranging the affairs have amalgamated, buried the hatchet, shaken hands and admitted that the war ended November 11, 1918. The dinner will be held at the Commodore.

BARRING SOCIALISTS TO COST CITY \$10,000

Defeated Aldermen Entitled to Keep Salaries.

Failure of the Aldermanic Committee on Privileges and Elections to act promptly on the contest of Algernon Lee and Edward F. Cassidy, Socialists elected to Aldermanic seats November 6, 1920 over Morris J. Morrison, of 124 East 71st street, and Tammany candidates, will have cost the city approximately \$10,000 by the time the Socialists are seated as a result of the recount, it was estimated yesterday.

The Board of Aldermen meets this afternoon in special session to act on the report of the committee, nearly two years after Lee and Cassidy filed contests.

The \$10,000 more than \$5,000 is chargeable to the salaries which Cassidy and Sullivan will be entitled to keep for their tenure. The remainder is made up of costs of the recount and court actions resulting therefrom.

E. A. MORRISON, JR., LEFT \$2,000,000 TO FAMILY

Widow Gets \$250,000 Outright in Lieu of Dowry.

The will of Edward A. Morrison, Jr., of the Hotel Gramatan, Bronxville, filed yesterday at Mount Vernon, disposed of an estate valued at \$2,000,000. To the widow, Josephine M. Morrison, of 124 East Fifty-second street, is left \$250,000 outright in lieu of dowry, to his only son, Edward A. Morrison, Jr., \$50,000 in trust, and one-fourth of the residue; a daughter, Julia M. Leroche, of 164 Madison avenue, received \$15,000 and one-fourth of the residue, and Josephine J. Morrison, of 54 East Fifty-seventh street and Louise M. Cora of Parkside, Pa., daughter, receive each one-fourth of the residue.

Mr. Morrison was a member of the Larchmont Yacht Club, of which his father was one of the founders. He died in September in Leamington, England.

BLAME TO BE FIXED IN \$2,000,000 THEFT

E. M. Morgan and 4 Assistants Go to Washington for Postal Conference.

LONE MAN NOW SOUGHT

Green Automobile and Its Owner Main Clues in Robbery of Mails.

HOLDUP RECONSTRUCTED

Zealous Guard Halts Actors, Believing Another Band Is Attacking Truck.

Postmaster Edward M. Morgan and four of his superintendents were summoned to Washington yesterday by the First Assistant Postmaster-General, Hubert Work. No announcement was made at the local post office, but it is known that a sweeping inquiry is to be made to fix responsibility for the mail truck robbery of October 24.

Despatches from Washington last night quoted Mr. Hays as saying he had asked the officials to come to Washington and that efforts are being made by him to fix responsibility for the robbery. He said that until the conferences are finished he could say nothing else.

Officials checking the losses said the total value of the securities and cash stolen will exceed \$2,000,000, about \$500,000 more than the first estimate. There has been no arrest, but it is understood that the search has narrowed down to one man and one automobile, both of which the postal inspectors hope to trace soon. The man, it was said, is the owner of the car, of Cleveland make, painted green. Both have been missing since the holdup and the chase has extended over several States. One inspector left for the South last night on a tip that the man he wanted had been seen.

George De Mange, who gave himself up Tuesday night at the Beach street police station because he thought the police were looking for him in connection with the robbery, was discharged in Tombs court when detectives assured the Magistrate that De Mange was not wanted. Frank Havranack, driver of the robbed truck, stated positively that De Mange was not one of the robbers.

Accompanying Postmaster Morgan to Washington were Henry Lippman, superintendent of registry; Elijah M. Norris, superintendent of mails; Walter Mayer, superintendent of the money order department; the superintendent of the post office garage and the former superintendent of the garage.

To visualize Havranack's description of the robbery several of the inspectors assigned to the case had Havranack drive a truck up Broadway Tuesday night at the same hour and in the same manner as he drove the truck which was held up. The man was wearing a touring car containing more inspectors ran alongside the mail truck and one of them boarded it in the manner in which Havranack said the robbery had been executed.

The fake robbery was proceeding exactly as the driver described the actual one, when one of the armed motorcycle guards now attached to all valuable loads of mail, happened along and thought he had tumbled into another \$1,000,000 stickup. He drew his gun and charged the actors who wasted no time in establishing their identity. Fortunately the motor guard did not shoot on sight.

Local police and Post Office authorities were concerned over a report that two men had been arrested and were being held in Jersey City in connection with the robbery. The prisoners, Michael Hoboken and Rafaela Deza, both of Hoboken, were arrested by Patrolman George Boule of Jersey City. The two were driving an automobile for which a general alarm had been sent out.

The men were arraigned before Judge Driscoll in criminal court and held in \$5,000 bail each as suspicious characters. Investigators of the Post Office Department went to Jersey City and questioned the pair. Patrolman Boule got a three day leave with pay for his alertness in spotting the automobile.

MISS MARY WOOD SEES SOLUTION IN CURRAN

Miss Mary Wood, straphanger and vice-chairman of the cooperating committee of the women's division of the coalition committee, summed up yesterday the viewpoint of the women interested in the transit question, who believe that the election of Henry Curran will solve the problem in the best possible way for the 6,000,000 other straphangers.

"I am not a city official or a bloated bondholder and do not belong to the money-bund," Miss Wood announced to those gathered in the women's headquarters in the Murray Hill Hotel. "I am just a plain member of the proletariat."

"Mr. Hyland did not give us a five-cent fare. We already had that, but he did take from us the straphangers, the free transfers which enabled us to travel about New York for a nickel. He even limited the lines on which transfers are issued, until now it costs teachers, working women, home women and men of the same groups, anywhere from 10 to 20 cents to go to and from work."

Flowers and Beakers

Flower beakers of crystal white glass of generous proportions (illustrated) have been made from classic designs. \$15 each.

Flower bouquets of opaque glass simulate our wild rose, in the same lovely shade of delicate pink with bright green leaves. These may be used atop the beaker or flat on the table. \$15 each. Beakers, \$7.50.

Deruta Candlesticks

lovely, twisted style, have arrived also, as people will be glad to know who bought the center-dishes and wanted candlesticks to match. In aquamarine, turquoise blue and violet. \$4 each.

Fourth Floor, Old Building.

Advertisements

Heavy Overcoats!

Here are heavy Shetland Overcoats as warm as toast and as light as a feather. Warmth without weight and made so well that they will retain their shape, the excellent quality of fabric helping. \$52. As to suits, fine worsteds, \$36-\$39. For clothing in general, you will get better for \$50-\$55. G. N. VINCENT, 524 6th Ave., Bet. 31-32d Sts.

Concert in the Auditorium today at 2:30.
CHICKERING - AMPIGO
Reproducing Piano. Edna Beatrice Bloom, soprano.
First Gallery, New Building.

Formerly A. T. Stewart & Co.

Broadway at Ninth, New York.

Open from 9 to 5:30.

Telephone 4700 Stuyvesant.

What Do You Think of the Times?

—Is the Question

I am personally asked and by letter or telegram a dozen times a day.

The answer is that the times are slowly bettering, but the biggest help must come from the United States Government in taking off taxes by stamps and otherwise.

The Secretaries of the Cabinet are the heads of the administration of the Government business and they should set the example of cutting down expenses by lengthening the hours to do the work with less people, if the way is not clear to reduce war wages and keep all people employed for short hours.

Merchandise will be cheaper when workpeople produce more every day. Probably none of us just now are doing our best. Some people in all cities are waiting patiently, smothering their wants, and keeping their money for lower prices.

(Signed)

John Wanamaker

November 3, 1921.

P. S. We have never liked to put all New York into a position before the world that our people are "all broke" and unable to pay cash for give-away presents, but be assured we will be liberal and obliging to all who desire us so to be.

REYNIER

Educational Sale-- Women's Gloves

\$4 Gloves for \$3

REYNIER. Pique sewn, two clasp suede, washable gloves, in mode and light gray, fashionably embroidered. Also pique sewn two clasp kidskin glove gloves in black, white, brown, tan, heaver and gray, with various styles embroidery.

\$3.50 Gloves for \$2.50

REYNIER. Overseam lace finish three clasp kidskin gloves in black, white, brown, tan, heaver and gray, richly embroidered.

\$4.50 Chevrete Gloves \$3.50

REYNIER. Two clasp, washable, in tan only.

\$7 and \$9 Long Gloves, \$6 and \$7.50

REYNIER. Kidskin, white only, 12 and 16 button lengths; for dress wear.

All perfect, first quality. Regular Glove Season, Main Floor, Old Building, East of Rotunda.

A Cargo of New Venetian Glass Arrived by Last American Steamer AU QUATRIEME

All sorts of lovely new things of Venetian glass, made last summer to the order of Au Quatrieme, some of them from designs of its own inspiration.

Swans and Ducks

of opaque glass are delightful and amusing. The swans in white or shining black, their feathers ruffled in spirited fashion. Between their wings a little boat-shaped cup to hold flowers for the table. \$7.50 each.

The ducks, white, with yellow bills, tilt forward in droll and rather immodest attitudes. \$7.50 each.

Candlesticks

have long slender stems of green or amber clear glass, topped with a rose in opaque glass—white, red, green, blue or yellow, from which the candle, which should match the rose, seems to bloom. \$6 each.

Candlesticks of crystal glass are in white, green and aquamarine, three lacy leaves curling outward to brace the stems of flowers to be placed in their bowls, from which the candle rises like a flame at the top. \$10 each.

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